

Securities and Exchange Commission

§ 250.7

of the Securities Act of 1933 (48 Stat. 74, 905; 15 U.S.C. 77b) who is regularly engaged in business as such and is not a registered holding company.

§250.5 Exemption of certain foreign holding companies.

Any holding company not organized under the laws of any State of the United States or the District of Columbia, and owning no utility assets located within any State of the United States or the District of Columbia and having no subsidiaries or affiliates owning any assets so located, shall, subject to the provisions of §250.6, be exempt from all the provisions of the act and rules thereunder: *Provided*, That such exemption shall not be applicable to any acquisition of utility assets located within any State of the United States or the District of Columbia or of any security of any company owning such assets or having any subsidiary owning such assets, if, as a result of such acquisition of securities, the acquiring company will become an affiliate of the issuer, except an issuer within any class specified in §250.10(a).

§250.6 Termination of exemptions.

If it appears to the Commission (on the basis of statements claiming exemption or otherwise) that a substantial question of law or fact exists as to whether any holding company claiming exemption under §250.2, §250.3, §250.4, §250.5, or §250.10 or any other section now or hereafter in force pursuant to section 3(a) of the Act exempting any class of holding companies from the registration requirements of the act, is within the exemption afforded by any such section, or if it appears that any question exists as to whether the exemption of any such company may be detrimental to the public interest or the interest of investors or consumers, the Commission may notify such holding company to that effect by registered mail. Thirty days after such notification, such exemption shall terminate, without prejudice to the right of such holding company to file an application for an order granting such an exemption pursuant to any applicable section of the act, and without prejudice to any temporary exemption pro-

vided for by the act if such application is filed in good faith.

[6 FR 5950, Nov. 25, 1941]

§250.7 Companies deemed not to be electric or gas utility companies.

(a) Any company which is primarily engaged in one or more businesses other than the business of an electric or gas utility company, shall not be deemed an electric or gas utility company within the meaning of section 2(a)(3) or section 2(a)(4) of the Act if the gross sales of electric energy, or of natural or manufactured gas distributed at retail by means of the facilities owned or operated by such company, did not exceed an average annual amount of \$5,000,000 over the preceding three calendar years. There may be excluded from the gross sales specified:

(1) Sales of electric energy or natural or manufactured gas to tenants or employees of the operating company for their own use and not for resale; and

(2) Sales of gas to industrial consumers or in enclosed portable containers.

(b)(1) Any company whose only connection with the generation, transmission, or distribution of electric energy is the ownership or operation of facilities used for the production of heat or steam from special nuclear material which heat or steam is used in the generation of electric energy shall not be deemed an electric utility company within the meaning of section 2(a)(3) of the Act, if such company is organized not for profit and is engaged primarily in research and development activities.

(2) As a prerequisite to being entitled to the status afforded by paragraph (b)(1) of this section, any such company shall file with this Commission a statement that such company falls within the provisions of that subparagraph, including as exhibits (i) copies of its charter, by-laws and any licenses issued by the Nuclear Regulatory Commission to such company; (ii) a list of its members or stockholders indicating their respective percentages of voting power; and (iii) if such company was in existence at the end of the preceding calendar year, a balance sheet as at the end of the preceding calendar year and an income and surplus statement for